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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

In re:

Seek, Gregory R., Seek Roxanne J,
Gregory Ronald Seek d/b/a Creative
Rock Landscape, d/b/a TRS
Construction

NO.: 0502875-PCW7

Motion for Relief From Automatic
Stay as to Property of the Debtors

I. PRELIMINARY STATEMENT

1.1 Ryan and Holly Baddeley, by and through their undersigned attorney,
Donna Beatty, moves that the court enter an Order granting Ryan and Holly
Baddeley relief from the automatic stay imposed by 11 U.S.C. § 362 to allow
Ryan and Holly Baddeley to obtain a judgment against the debtors in order to
collect on the debtor's Contractors Registration Bond.

1.2 The Debtors are indebted to Ryan and Holly Baddeley, (hereinafter
referred to as "Baddeleys") in unliquidated amount of \$49,000. On June 16,
2004, a lawsuit was brought in the Superior Court of the State of Washington,

Motion for Relief from Automatic Stay
Page 1

FILED

MAY - 9 2005

T.S. MCGREGOR, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

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1 (Cause No. 04-202729-7) regarding the debt due and against the Contractor's
2 Registration Bond (Bond No: B34221099) held by Gulf Insurance Corporation.
3

4 **II. REQUEST RELIEF FROM STAY TO COLLECT ON**
5 **CONTRACTOR'S BOND**

6 2.1 RCW 18.27.040(6) requires a contractor to maintain a Contractor's
7 Registration Bond, and further requires a plaintiff to obtain a judgment against
8 the contractor in order to obtain payment from such bond.
9

10 2.2 The Debtors are indebted to the Baddeleys in the unliquidated sum of
11 \$49,000, plus interest, for materials and services in the form of a retaining wall
12 fraudulently or recklessly provided to the Baddeleys. Had it not been for the
13 contractor's affirmative assurances, individually and through a Certified
14 Professional Engineer, that the wall was constructed to manufacturer's
15 specifications, the City of Liberty Lake would have ordered the wall dismantled
16 and the Debtors would not have been paid, or would have been paid only a
17 portion of the amount they collected from the Baddeleys. The wall was grossly
18 out of spec and as a result, did not withstand the first winter and had to be
19 deconstructed at the Baddeleys' expense.
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1 2.3 RCW 18.27.040(6) requires a contractor to maintain a Contractor's
2 Registration Bond, and further requires a plaintiff to obtain a judgment against
3 the contractor in order to obtain payment from such bond.
4

5 2.4 A Bankruptcy Petition was filed on April 7, 2005 by the Debtors. The
6 Baddeleys are seeking relief from the automatic stay imposed by 11 U.S.C §
7 362 to collect on the Bond.
8
9

10 III. BASIS FOR MOTIONS 11

12 3.1 This motion is brought pursuant to 11 U.S.C. §362(d) upon the following
13 grounds:

14 (1) For cause, to allow the Baddeleys to obtain a judgment against
15 the debtors;
16

17 (2) To collect on a Contractor's Bond, a judgment must be
18 obtained against the debtors;
19

20 (3) There are claims in the lawsuit that are due and owing, and
21 collectible from the Contractor's Bond.

22 (4) For cause, to allow the Baddeleys to obtain a judgment against
23 the debtors;
24
25
26

1 (5) To collect on a Contractor's Bond, a judgment must be
2 obtained against the debtors;

3
4 (6) There are claims in the lawsuit that are due and owing, and
5 collectible from the Contractor's Bond; and

6 (7) the Trustee did not claim this bond as an asset of the estate.

7
8 3.2 If objection is made to the entry of the order requested in this Motion, the
9 Motion will be supported by affidavits and/or memorandum of authority.

10 3.3 Nothing in this Motion is intended to waive the right of the Baddeleys to
11 submit to this Court an Objection to the Discharge of the debt owed in the
12 matter of the aforementioned lawsuit now pending in Superior Court.

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15 **WHEREFORE**, the movant prays that the automatic stay be lifted to permit
16 the Baddeleys to obtain a judgment against the Debtors so that the Baddeleys
17 may collect on the Contractor's Registration Bond identified herein.
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19
20 Dated this 9th day of May, 2005

21
22 DONNA L. BEATTY, ATTORNEY AT LAW

23
24 By: Donna L. Beatty
25 Donna L. Beatty
26 Attorney for Creditors Ryan and Holly Baddeley